

Review Committee Draft post 10/23/09 work session-updated for November 20, 2009 review  
committee work session

Committee Recommended Changes in grey shade

Recommended Changes per HB486 in blue shade

Unresolved in green shade

## Appendix A Subdivision Pre-application Process

### General Instructions

A preliminary meeting to explain the subdivision process is available for all interested parties. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning and Zoning Office by submitting a Pre-application Request Form and attachments. The Planning and Zoning Office shall notify the subdivider within five working days of the meeting date and time. The pre-application meeting shall occur within 30 days after the request is submitted:

- a. At the time of the pre-application meeting request, the subdivider shall provide the Planning and Zoning Office with a concept plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The concept plan must include the following:
  - i. Information on the current status of the site, including:
    - A. General Location;
    - B. Approximate boundaries of existing tract;
    - C. Wildlife range;
    - D. Natural features;
    - E. Existing structures and public improvements;
    - F. Steep slopes (40 percent or greater);
    - G. Existing utility lines and facilities;
    - H. Known easements and rights of way;
    - I. Wetlands;
    - J. Drainages and swales;
    - K. Water resources (rivers, streams, lakes);
    - L. 100-year floodplain;

- M. Documentation of original tract of record as of July 1, 1973.
- ii. Information on the proposed subdivision, including:
  - A. Tract and lot boundaries;
  - B. Public improvements;
  - C. Location of utility lines and facilities;
  - D. Easements and rights of way;
  - E. Any parks, common areas, or open space.
- b. At the subdivision pre-application meeting the Planning and Zoning Office shall:
  - i. Identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;
  - ii. Provide the subdivider with a list of public utilities, local, state and federal agencies, and other entities that may have a substantial interest in the proposed subdivision and be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond;
  - iii. Identify particular additional information the Planning and Zoning Office anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning and Zoning Office to request additional information at a later time.
- c. The Planning and Zoning Office may require additional relevant and reasonable information to adequately assess whether the proposed subdivision complies with these regulations and the Montana Subdivision and Platting Act. Any request for additional information shall be in writing within 10 working days following the pre-application meeting. The subdivider will be notified if the Planning and Zoning Office ~~notifies~~ identifies a public utility, agency or other entity that was not on the original list of contacts;
- d. Unless the subdivider submits the subdivision application as provided in Section 4.2.2 or 4.4.2 within six months of the pre-application meeting, the pre-application is void. The subdivider may request one six-month extension by submitting a written request prior to expiration of the pre-application;
- e. The information submitted as part of the pre-application meeting shall be retained and used for review purposes by the Planning and Zoning Office.

## Appendix B

### Application and Preliminary Plat Supplements

#### **Part 1 – Application Supplements**

In addition to a subdivision application and requirements of these Regulations the following information, including one reproducible set of all application information, must be supplied and considered part of the subdivision application, if applicable:

- a. A fee simple property deed or other instrument showing title and ownership for the property being subdivided. No subdivision application is allowed on a parcel or tract of land which is not recorded or recognized by the county assessor;
- b. A copy of each certificate of survey or subdivision plat(s) pertaining to the subject parcel filed or recorded since July 1, 1973;
- c. If the proposed subdivision is a major or subsequent minor, an environmental assessment which meets the requirement of Appendix C (Environmental Assessment). An environmental assessment may be waived, if all of the conditions of Section 4.4.13 are met;
- d. If the subdivision is a first minor subdivision a summary of probable impacts, Appendix D (First Minor Subdivision Impact Criteria), including any mitigation of impacts;
- e. If applicable, A Fire Prevention Control and Fuels Reduction Plan for subdivisions in a Wildland Urban Interface, pursuant to Section 4.7.28;
- f. If applicable, A Flood Hazard Evaluation pursuant to Section 4.7.9;
- g. A complete conceptual storm water drainage plan which includes a description of temporary and permanent measures for the disposal of storm run-off from roads within the subdivision and an indication whether storm run-off will enter state waters in conformance with section 4.7.13;
- h. If applicable, A Dust Control Plan identifying reasonable precautions intended to mitigate dust generated by the subdivision pursuant to Section 4.7.14 and Appendix J;
- i. Copies of easements or proposed easements to provide legal primary, and secondary if required, access to the subdivision. If any access easement is provided through federal or state lands evidence that the land management agency shall approve the easement in writing has been contacted;

- j. Copies of any existing Road Approach Permits if proposing to use an existing access onto a County road or State highway;
- k. ~~If applicable, When the subdivider owns adjacent property a portion of a tract of land is to be subdivided,~~ the subdivider may be required to provide a plan of development indicating intent for the development of the ~~entire tract other~~ property;
- l. A copy of any existing covenants and restrictions on any lands to be subdivided;
- m. If common property is to be deeded to a property owners association, a draft of the covenants and restrictions or Home Owners Agreement which will govern the common property;
- n. A draft Road User's agreement for maintenance;
- o. ~~If required,~~ An approved "Will Serve Letter" or agreement from public water and/or sewer purveyors providing a guaranteed commitment the subdivision will be provided with water and/or sewer service for build out of the development;
- p. A description and ~~vicinity~~ map of the proposed subdivision's water supply systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the Montana Department of Environmental Quality. The ~~vicinity~~ map must show the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots the following:
  - i. 100-Year flood plains;
  - ii. Surface water features, including lakes, streams and rivers, springs and irrigation ditches;
  - iii. Existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater systems;
  - iv. Location, within 500 feet outside the of the exterior property line of the subdivision, of public water and sewer facilities.
- q. Evidence of suitability for new onsite wastewater treatment systems which include:
  - i. ~~A~~ Soil profile description(s) from a representative drain field site ~~or sites~~ identified on the vicinity map that complies with standards published by the Montana Department of Environmental Quality;

- ii. Demonstration that ~~the each~~ soil profile contains a minimum of four feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer;
  - iii. In cases in which the soil profile or other information indicates that ground water is within five feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance.
- r. For new water supply systems, unless storage tanks are proposed, evidence of adequate water availability which includes information from:
  - i. Well logs or testing of onsite or nearby wells;
  - ii. Published hydro-geological reports;
  - iii. As otherwise specified by rules adopted by the Montana Department of Environmental Quality.
- s. Evidence of sufficient water quality in accordance with rules adopted by the Montana Department of Environmental Quality;
- t. A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the Board of Environmental Review pursuant to 75-5-301 and 75-5-303, MCA related to standard mixing zones for ground water, source specific mixing zones, and non-significant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. The subdivider may perform a complete non-degradation analysis in the same manner as is required for an application that is reviewed by the Department of Environmental Quality;
- u. A drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the Montana Department of Environmental Quality;
- v. ~~Where applicable,~~ Information regarding the disposition of water rights. This includes copies of any water rights owned by the land owner to be reserved and/or transferred. The subdivider shall ~~indicate a proposal to:~~
  - i. Reserve all or a portion of the appropriated water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water;

- ii. Establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots; (re-arranged)
- iii. Reserve and sever all surface water rights from the land.
- w. For major subdivisions, an adjoiners list of all tracts, lots, or land parcels adjoining the proposed subdivision together with the name and address of the owner of each tract, lot, or land parcel certified by the clerk and recorder, GIS Office or title company, generated not more than 30 days prior to the application submittal. Where the proposed subdivision abuts a public right-of-way, or rivers less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent;  
  
Note: Adjoiner lists shall be valid for a six month period. If the origination date of the adjoiners list is older than six months of the scheduled public hearing the Planning and Zoning Office shall require a new adjoiners list before the application is scheduled for a public hearing.
- x. A draft Latecomers Agreement for future payback of public improvements, such as road, sewer, water or utilities, if applicable pursuant to Section 4.0.17 and Appendix H;
- y. A clear written description of directions to the subject site for vehicle travel;
- z. One or more vicinity site location map(s) on 11" x 17" paper. Vicinity Site location maps shall be clear, concise and reproducible, showing the following:
  - i. The locations of the proposed subdivision in relation to the nearest town, highway, and road system;
  - ii. Vehicle access to the subdivision from the adjoining or nearest public roads;
  - iii. Names of any adjoining platted subdivisions and/or numbers of adjoining Certificates of Survey on record in the Office of the Clerk and Recorder.
- aa. A description of any existing or proposed stream bank or shoreline alterations, and any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration;
- bb. A description of all existing and proposed easements or rights-of-way for utilities, or other purposes on or adjacent to the proposed subdivision, including:

- i. A description of each easement width;
  - ii. The approximate on-site location, size and depth of existing water and sewer mains, fire hydrants, gas, electric and telephone lines as well as the nearest off-site location of the above named utilities, ~~if appropriate~~;
  - iii. All on-site utility descriptions shall be referenced to the preliminary plat.
- cc. ~~If applicable, a~~ Request for ~~any/all~~ variance(s) to these Regulations.

### Part 2 – Preliminary Plat Form and Contents

The subdivider shall submit a legible plat at a scale sufficient to minimize the number of sheets and maintain clarity. The plat shall consist of one or more sheets either 18 x 24 inches or 24 x 36 inches in size. Additional copies of the plat measuring 11 x 17 inches in size and 8.5 x 11 inches in size shall be included. The following shall be included on the preliminary plat, ~~if applicable~~:

- a. Name and location of the subdivision, scale, scale bar, north arrow and date of preparation;
- b. The approximate exterior boundaries and location of all section corners or subdivision corners of sections pertinent to the subdivision boundary including bearings and distances sufficient to locate the exact area proposed for subdivision;
- c. All lots and blocks designated by numbers, approximate dimensions scaled to the nearest foot, and the area of each lot estimated to the nearest 0.1 acre;
- d. Ground contours for the tract shall be shown in accordance to the following requirements:

Where the Average  
Slope of the  
Entire Site Is

Under 10%  
10% - 15%  
Over 15%

Contour Intervals  
for the Entire  
Plat Shall Be

Two (2) feet  
Five (5) feet  
Ten (10) feet

If a uniform contour interval is not practical, the contour interval may be changed for steep areas, if such a change is clearly identifiable through shading or other appropriate graphic technique. For building pads and driveways see Section 4.7.7 for additional topography requirements.

- e. The planning director may waive the topography requirement if the subdivider can demonstrate that the elevation difference over the entire subdivision is less

- than 20 feet and the average lot size is 20 acres or greater and not in a 100-year floodplain. Note: Averaging lot size includes cluster development and Open Space commitments;
- f. All existing and proposed adjoining roads and alleys, and width of the access easement(s) with existing and proposed road names and access points from the nearest public roads;
  - g. Any existing and proposed utilities located on or adjacent to the proposed subdivision, including utility easements and right-of-way easements located or proposed to be located on or adjacent to the tract;
  - h. Location, boundaries, dimensions and areas of any parks or areas dedicated for common or public use;
  - i. Location and size of existing buildings, structures and improvements, if to be retained;
  - j. Designated one hundred year (100-year) floodplain and/or floodway area, if any;
  - k. Location and size of all natural and environmental features on the site including all surface water bodies, wetlands, springs and areas of shallow ground water eight feet or less;
  - l. For each lot where the obvious building area is in question (general topography of the lot or immediate topography adjacent to the primary access road averages 25%) show:
    - i. A typical building pad (measuring a minimum 40 foot square);
    - ii. The building pad must be able to be accessed by a minimum 10 foot wide private drive with no point of the driveway exceeding a ~~maximum~~ developed grade of 10%, and ~~Note that~~ the initial 20 feet of driveway surface shall not exceed 5% ~~slope~~ grade. In the case ground contours provided in conformance with (d) above do not indicate conformance with the grade standard, the application shall include engineered driveway profiles demonstrating conformance of developed grade;
    - iii. The driveway and building pad shall be identified on the preliminary plat using minimum 2-foot contour intervals for clarity;
    - iv. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geo-technical soils analysis conducted by a licensed engineer prior to final plat approval.



## Appendix C Environmental Assessment

### **General Instructions**

It shall be the responsibility of the subdivider to submit the information required by this Section with the preliminary plat. This Environmental Assessment format shall be used by the applicant in compiling a thorough description of the potential impacts for the proposed subdivision. Each question pertinent to the proposal must be addressed in a full comprehensive and systematic fashion (both maps and text). Incomplete Environmental Assessments will not be accepted.

The Environmental Assessment will be objectively measured to assure that all mandatory elements are included and that, based upon objective standards, all prospective impacts are adequately addressed. At a minimum the Environmental Assessment must contain the following for all assessment contents:

- a. A summary of probable impacts and statement of impact for each environmental consideration topic;
- b. A discussion to support the statement of impact;
- c. Referenced sources and citations to support the statement of impact;
- d. If applicable, site specific maps and documentation to support the statement of impact and discussion.

If, at any time during the application process, material information comes to light that is not addressed in the Environmental Assessment, the subdivider shall be required to amend the Environmental Assessment to adequately address the issue. In this event the 60 working day review period is suspended and will not resume until the amended Environmental Assessment has been submitted, reviewed and approved by the Planning and Zoning Office. Following the review and acceptance of the amended Environmental Assessment, the application review process will resume at the same stage of the 60 working day review period in the process that the original application was at before the additional information became to light.

### **Environmental Assessment Contents**

There are ~~three~~ two major sections to the Environmental Assessment. The first section incorporates the natural system provisions of ~~(76-3-603 and 76-3-608, MCA)~~. The second section evaluates the impacts to the human community and incorporates 76-3-608 (3)(a) criteria for public health, safety and local services. The sources of information for each section of the Assessment shall be identified. All Environmental Assessments shall contain the signature, date of signature and mailing address of the owner of the property and the person, or persons, preparing the report and citation and a copy of all supporting information.

**Section 1 – Resource Assessment and Impacts** needs more attention

## a. Surface Water:

- i. Locate on the preliminary plat and describe all surface water and the delineated 100 year floodplains which may affect or be affected by the proposed subdivision including:
  - A. All natural water systems such as perennial and intermittent streams, lakes and ponds, rivers, or marshes;
  - B. All artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation or drainage systems;
- ii. Describe all probable impacts to surface waters which may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year when water is present and proximity of proposed construction (e.g. buildings, sewer systems, roads) to surface waters;
- iii. Describe any existing or proposed stream bank or shoreline alterations or any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, and purpose of alteration. If any construction or changes are proposed which require a 310 Permit from the Flathead County Conservation District the subdivider shall acknowledge that the permit is required and will be obtained prior to final plat;
- iv. If wetlands are present, the subdivider shall identify and provide a map showing wetland areas. A wetlands investigation completed by a qualified consultant, using the most current U.S. Army Corps of Engineers' Wetlands Delineation Manual may be required. If any construction or changes are proposed which require a 404 Permit, the subdivider shall acknowledge that the permit is required and will be obtained.

## b. Ground Water:

- i. Establish the seasonal minimum and maximum depth to water table, dates on which these depths were determined, and the location and depth of all known aquifers which may be affected by the proposed subdivision. Monitoring may be waived if evidence of minimum and maximum ground water elevations can be documented;
- ii. If determined from subsection (a)(i) above that any area within the proposed subdivision is within eight feet of the surface, the high water

table shall be measured from tests taken during the period of the highest groundwater elevations, generally from March 15 through June 30, during average precipitation years and reported in the environmental assessment;

- iii. Describe any steps necessary to avoid probable impacts and the degradation of ground water and ground water recharge areas as result of the subdivision.
- c. Geology/Soils:
- i. Locate on the preliminary plat any known geologic hazards affecting the subdivision which could result in property damage or personal injury due to rock falls or slides, mud, snow; surface subsidence (e.g., settling or sinking); and seismic activity;
  - ii. Explain what measures will be taken to prevent or materially lessen the danger and probable impacts of future property damage or personal injury due to any of the hazards referred to above;
  - iii. Explain any unusual soil, topographic or geologic conditions on the property which limit the capability for building or excavation using ordinary and reasonable construction techniques. The explanation should address conditions such as shallow bedrock, high water table, unstable or expansive soil conditions, and slope. On the preliminary plat identify any slopes in excess of 40 percent;
  - iv. Identify any soils constraints, including expansive soils, hydric soils, or any soils which limit sanitary facilities. Explain special design considerations and methods needed to overcome the soil limitations;
  - v. Describe the location and amount of any cut or fill three or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote re-vegetation such as replacement of topsoil and grading.
- d. Vegetation:
- i. On a sketch map or aerial photo indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest, including critical plant communities such as stream bank or shore line vegetation; vegetation on steep, unstable slopes; vegetation on soils highly susceptible to wind or water erosion;
  - ii. Identify any locations of noxious weeds and identify the species of weeds and explain measures to control weed invasion;

- iii. Describe any probable impacts and any protective measures to preserve trees and critical plant communities (e.g., design and location of roads, lots and open spaces).
- e. Wildlife:
  - i. Describe species of fish and wildlife which use the area affected by the proposed subdivision;
  - ii. Identify on the preliminary plat any known critical or “key” wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, or wetlands;
  - iii. Identify rare and endangered species on-site. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;
  - iv. Describe any probable impacts and any proposed measures to protect or enhance wildlife habitat or to minimize degradation (e.g., keeping building and roads back from shorelines; setting aside marshland as undeveloped open space);
  - v. It is recommended that the subdivider discuss the impact of the proposed development on fish and wildlife with the Department of Fish, Wildlife and Parks (FWP) and incorporate any recommendations from the agency to mitigate wildlife impacts.
- f. Agriculture and Timber Production:
  - i. On a sketch map locate the acreage, type and agricultural classifications of soils;
  - ii. Identify and explain the history of any agricultural production of the by crop type and yield;
  - iii. Describe the historical and current agricultural uses which occur adjacent to the proposed subdivision and explain any probable impacts and measures which will be taken to avoid or limit development conflicts with adjacent agricultural uses;
  - iv. If timbered, identify and describe any timber management recommendations which may have been suggested or implemented by a professional forester.
- g. Agricultural Water User Facilities:

- i. On a sketch map or aerial photo locate the location of any agricultural water user facility, including but not limited to agricultural water works, wells, canals, irrigation ditches and pump houses on-site or adjacent to the proposed subdivision;
  - ii. Describe any agricultural water user facility on the site or in proximity that might be affected and explain any probable impact(s) and measures which will be taken to avoid or mitigate probable impacts;
  - iii. It is recommended that the subdivider discuss any impact of the proposed development on agricultural water users facilities with the irrigation company or organization controlling the facility and incorporate any recommendations from the agency to mitigate agricultural water users impacts.
- h. Historical Features:
  - i. Describe and locate on a plat overlay or sketch map any known or possible historic, paleontological, archeological or cultural sites, structures, or objects which may be affected by the proposed subdivision;
  - ii. Describe any plans to protect such sites or properties;
  - iii. Describe the impact of the proposed subdivision on any historic features, and the need for inventory, study and/or preservation and consultation with the State Historic Preservation Office (SHPO).
- i. Visual Impact:
  - i. Describe any efforts to visually blend development activities with the existing environment.
- j. Air Quality:
  - i. Describe any anticipated impact to air quality caused from dust or other air pollutants, including dust created from roads, and any means to mitigate the impact to air quality.
- k. Area Hazards:
  - i. Describe and locate on a plat overlay or sketch map any hazardous concerns or circumstances associated with the proposed subdivision site, including, but not limited to:

- A. Any part of the proposed subdivision that is located within the Wildland Urban Interface priority area. If identified in the Wildland Urban Interface or high fire hazard area identified by a local fire district or fire authority describe probable impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support the statement;
- B. Any potential hazardous materials contained on site, including high pressure gas lines, high voltage transmission lines, super fund sites, abandoned landfills, mines or sewer treatment plants, etc. In some cases an Environmental Site Assessment may be required;
- C. Describe measures to mitigate any adverse impacts associated with area hazards.

**Section 2 - Impact Criteria Report (76-3-608, MCA) (integrated into Section 1)****a. ~~Impacts on Agriculture:~~**

- ~~i. Proposed subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on agriculture;~~
- ~~ii. Proposed subdivisions located on or in proximity to prime farmland are presumed to have an impact on agriculture. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.~~

**b. ~~Impact on Agricultural Water User Facilities:~~**

- ~~i. Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water use facility are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;~~
- ~~ii. Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;~~

iii. — Proposed subdivisions that will alter access for maintenance of agricultural water user facilities are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

iv. — Proposed subdivisions that will alter the movement or availability of water are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.

c. — Impact on Local Services:

i. — Proposed subdivisions that will use existing public utilities without extension are presumed to have a minimal impact on local services;

ii. — Proposed subdivisions that require the extension of public facilities are presumed to have an impact on local services. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.

d. — Impact on Natural Environment:

i. — Proposed subdivisions that will use existing utilities are presumed to have a minimal impact on the natural environment except as otherwise provided in subsection (v) below. If an impact exists pursuant to subsection (v) describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

ii. — Proposed subdivisions in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

iii. — Proposed subdivision on land with a high water table eight feet or less from the surface), wetlands, or groundwater recharge areas are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement why no impact is anticipated, providing documentation to support that statement;

iv. — Proposed subdivisions in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed

on slopes greater than 25 percent are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

- v. Proposed subdivisions on land with historical, cultural, archeological, or paleontological features are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement why no impact is anticipated, providing documentation to support that statement.

e. Impacts on Wildlife and Habitat:

- i. Proposed subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife and wildlife habitat;
- ii. Proposed subdivisions in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife and wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;
- iii. Proposed subdivisions in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;
- iv. Proposed subdivisions on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife and wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.

f. Impacts on Public Health and Safety:

- i. Proposed subdivisions that are contiguous to urbanized areas and utilize available public facilities are presumed to have a minimal impact on public health and safety;
- ii. Proposed subdivisions located in the Wildland Urban Interface or fire hazard area identified by a local fire district or local fire authority are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;



- iii. Proposed subdivisions on land with high pressure gas lines or high voltage lines are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;
- iv. Proposed subdivisions on land or adjacent to Superfund or hazardous waste sites are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;
- v. Proposed subdivisions on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.

**Part 3 Section 2 - Community Impact Report**

- a. Impacts on Public Health and Safety: (applicable per 76-3-608(2)(a))
  - i. Describe any probable impacts and any measures to mitigate the impacts, or submit a statement explaining why no impact is anticipated, providing documentation to support that statement that might affect public health and safety that aren't specifically addressed in other sub-section of the environmental assessment;
  - ii. It is recommended that the subdivider discuss the impact of the proposed development with health department and other state and local agencies and incorporate any recommendations from the agency to mitigate wildlife impacts. This needs more work!
- b. Water Supply:
  - i. Describe the proposed water system and how water will be provided for household use and fire protection and the number of gallons needed to meet the needs of the anticipated final population;
  - ii. Indicate whether the plans for water supply meet state standards for quality, quantity and construction criteria.
  - iii. If the subdivider proposes to connect to an existing water system:

- A. Identify and describe that system;
    - B. Provide written evidence that permission to connect to that system has been obtained;
    - C. State the approximate distance to the nearest main or connection point;
    - D. State the cost of extending or improving the existing water system to service the proposed development;
    - E. Show that the existing water system is adequate to serve the proposed subdivision.
  - iv. If a public water system is to be installed, discuss:
    - A. Who is to install that system and when it will be completed;
    - B. Who will administer and maintain the system at the beginning of subdivision development and when subdivision is completed;
    - C. Provision of evidence that the water supply is adequate in quantity, quality, and dependability (75-6-102 MCA).
  - v. If individual water systems are to be provided, describe the adequacy of supply of the ground water for individual wells or cisterns and how this was determined.
- c. Sewage Disposal:
  - i. Describe the proposed method of sewage disposal and system;
  - ii. Indicate the number of gallons of effluent per day which will be generated by the proposed subdivision at its full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated final needs of the subdivision and whether it meets state standards;
  - iii. If the development will be connected to an existing public sewer system, include:
    - A. A description of that system and approximate distance from the nearest main or connection point to the proposed subdivision;
    - B. Written evidence that permission to connect to that system has been obtained.

- iv. If a new public sewage disposal system, as defined under 75-6-102 MCA, is to be installed, discuss:
  - A. When the system will be completed, and how it will be financed;
  - B. Who is to administer and maintain the proposed system at the beginning of subdivision development and when development is completed?
- d. Storm Water Drainage:
  - i. Describe the proposed methods of storm water drainage for roads and other anticipated impervious surfaces, including storm water calculations;
  - ii. Describe the proposed methods of storm water drainage for other areas of the subdivision, including storm water calculations;
  - iii. Identify the mechanism and who is responsible for the maintenance of the storm water drainage system.
- e. Solid Waste Disposal:
  - i. Describe the proposed system of solid waste collection and disposal for the subdivision including:
    - A. Evidence that existing systems for collection and facilities for disposal are available and can handle the anticipated additional volume;
    - B. A description of the proposed alternative where no existing system is available.
- f. Roads:
  - i. Describe any proposed new public or private access roads or substantial improvements of existing public or private access roads;
  - ii. Discuss whether any of the individual lots or tracts have access directly to arterial or collector roads; and if so, the reason access was not provided by means of a road within the subdivision;
  - iii. Explain any proposed closure or modification of existing roads.
  - iv. Identify existing primary road Average Vehicle Traffic and subdivision daily vehicle traffic assigned to that primary road.

- v. Describe provisions considered for dust control on roads;
  - vi. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadways;
  - vii. Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterial, when the subdivision is fully developed;
  - viii. Indicate the capacity of existing and proposed roads to safely handle any increased traffic. Describe any anticipated increased maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance;
  - ix. Explain whether year round access by conventional automobile will be available over legal rights of way to the subdivision and to all lots and common facilities within the subdivision.
- g. Utilities:
- i. Include a description of:
    - A. The method of furnishing electric, natural gas or telephone service, where provided;
    - B. The extent to which these utilities will be placed underground;
    - C. Estimated completion of each utility installation.
- h. Emergency Services:
- i. Describe the emergency services available to the subdivision such as:
    - A. Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned;
    - B. Police protection;
    - C. Ambulance service/Medical services;
    - D. Give the estimated response time of the above services;
    - E. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities.

## i. Schools:

- i. Identify the School Districts and describe the available educational facilities which would service this subdivision;
- ii. Estimate the number of school children that will be generated from the proposed subdivision;
- iii. The subdivider shall discuss the impact of the proposed development on the provision of educational services with the administrator(s) of the appropriate school system(s). The subdivider shall provide a written statement outlining whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system, any recommendations of the administrator(s), and any mitigation planned to overcome any adverse impacts of the proposed development on the provision of educational services.

## j. Land Use:

- i. Describe comprehensive planning and/or land use regulations covering the proposed subdivision or adjacent land and if located near the jurisdictional area of an incorporated city or town, whether annexation is propose;
- ii. Describe how the subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed development, describe present and anticipated uses for those lands; (e.g., grazing, logging, recreation, etc.);
- iii. Describe the effect of the subdivision on adjacent land use;
- iv. Describe any health or safety hazards on or near the subdivision, such as mining activity or potential subsidence, high pressure gas lines, dilapidated structures or high voltage power lines. Any such conditions should be accurately described and their origin and location identified. List any provisions that will be made to mitigate these hazards.

## k. Housing:

- i. Indicate the proposed use(s) and number of lots or spaces in each:
  - A. For residential indicate the type of dwelling unit;
  - B. For all other uses the type and intensity of use (e.g. industrial, commercial, etc.).

1. Parks and Recreation Facilities:
  - i. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

## Appendix D

### First Minor Subdivision Impact Criteria Report

#### **General Instructions**

The Montana Subdivision and Platting Act (76-3-608 MCA) sets criteria, including but not limited to, factors that are representative of impacts on the criteria listed below. Each impact must be addressed in a comprehensive and systematic fashion. The impact criteria are based on a presumption that there will be impacts, unless noted to have a minimal impact. For each of the criterion describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement. If any of the criteria impacts are not applicable it shall be noted; with an explanation as to why it is not applicable. Incomplete impact reports will not be accepted.

The source(s) of information for each criteria impact shall be identified as part of the analysis. All impact analyses shall contain the name of the property, owner of the property and the person(s) preparing the criteria impact report.

#### **Impact Criteria**

- a. Impacts on Agriculture:
  - i. Proposed first minor subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on agriculture;
  - ii. Proposed first minor subdivisions and its improvements located on or in proximity to prime farmland are presumed to have an impact on agriculture.
- b. Impact on Agricultural Water User Facilities:
  - i. Proposed first minor subdivisions and its improvements located on land with agricultural water user facilities or adjoining an agricultural water use facility are presumed to have an impact on agricultural water user facilities;
  - ii. Proposed first minor subdivisions and its improvements that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are presumed to have an impact on agricultural water user facilities;
  - iii. Proposed first minor subdivisions and its improvements that will alter access for maintenance of agricultural water user facilities are presumed to have an impact on agricultural water user facilities;

- iv. Proposed first minor subdivisions and its improvements that will alter the movement or availability of water are presumed to have an impact on agricultural water user facilities.
- c. Impact on Local Services:
  - i. Proposed first minor subdivisions that will use existing utilities without extension are presumed to have a minimal impact on local services;
  - ii. Proposed first minor subdivisions that require the extension of public facilities are presumed to have an impact on local services.
- d. Impact on Natural Environment:
  - i. Proposed first minor subdivisions and its improvements that will use existing utilities are presumed to have a minimal impact on the natural environment except as otherwise provided in subsection (v) below;
  - ii. Proposed first minor subdivisions and its improvements in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on the natural environment;
  - iii. Proposed first minor subdivisions and its improvements on land with a high water table eight feet or less from the surface), wetlands, or groundwater recharge areas are presumed to have an impact on the natural environment;
  - iv. Proposed first minor subdivisions and its improvements in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 40 percent are presumed to have an impact on the natural environment;
  - v. Proposed first minor subdivisions and its improvements on land with historical, cultural, archeological, or paleontological features are presumed to have an impact on the natural environment.
- e. Impacts on Wildlife ~~and Habitat~~: (HB 486 Sec. 18)
  - i. Proposed first minor subdivisions and its improvements that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife ~~and wildlife habitat~~;
  - ii. Proposed first minor subdivisions and its improvements in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife ~~and wildlife habitat~~;



- iii. Proposed first minor subdivisions and its improvements in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife;
- iv. Proposed first minor subdivisions and its improvements on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife ~~and wildlife habitat~~.

**f. Impacts on Wildlife Habitat:**

- i. Proposed first minor subdivisions and its improvements that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife habitat;
- ii. Proposed first minor subdivisions and its improvements in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife habitat
- iii. Proposed first minor subdivisions and its improvements in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife habitat;
- iv. Proposed first minor subdivisions and its improvements on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife habitat.

**gf. Impacts on Public Health and Safety:**

- i. Proposed first minor subdivisions and its improvements that are contiguous to urbanized areas and utilize available public facilities are presumed to have a minimal impact on public health and safety;
- ii. Proposed first minor subdivisions and its improvements located in an area identified as a Wildland Urban Interface wildfire priority area are presumed to have an impact on public health and safety;
- iii. Proposed first minor subdivisions and its improvements on land with high pressure gas lines or high voltage lines are presumed to have an impact on public health and safety;
- iv. Proposed first minor subdivisions and its improvements on land or adjacent to Superfund or hazardous waste sites are presumed to have an impact on public health and safety;

- v. Proposed first minor subdivisions and its improvements on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants are presumed to have an impact on public health and safety.

## Appendix E

### Contents of Final Plat Application

#### General Instructions

The final plat submitted for approval shall conform to the preliminary plat previously approved by the Commission and shall incorporate all conditions imposed at the time of conditional approval. The final plat shall conform to the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats.

The final plat submitted for approval shall conform to the preliminary plat previously approved by the Commission and shall incorporate all conditions imposed at the time of conditional approval. The form, accuracy, and descriptive content of the final plat document which will be filed with the Clerk and Recorder is prescribed by the Montana Board of Professional Engineers and Professional Land Surveyors and is contained in the Montana Department of Labor and Industry Administrative Rules for Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats.

- A.a.** A final plat may not be approved by the Commission nor filed by the Clerk and Recorder unless it complies with the following requirements:
- i. Final plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches and shall include a 1-1/2 inch margin on the binding side;
  - ii. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- B.** The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the County as part of the final plat application process. Said original documents must accompany the approved final plat when filed with the County Clerk and Recorder:
- i. A title report from a licensed title abstractor or Title Company showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land (must not be over 90 days old at time of Flathead County Planning & Zoning Office final plat application acceptance);
  - ii. Copies of any deed restrictions relating to public improvements;

- iii. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;
  - iv. Copies of articles of incorporation and by-laws for any property owners' association;
  - v. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed;
  - vi. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans;
  - vii. Copy of the state highway permit when a new road access will intersect with a state highway;
  - viii. A certification from the County Treasurer's Office stating that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid;
  - ix. Certification by the local fire district or local fire control authority that the Fire Prevention and Fuels Reduction Plan has been implemented.
  - x. In the case of a multi-user water system, proof of an applicable water right 'provisional permit' issued by the Montana Department of Natural Resources and Conservation.
- C.b.** The final plat submitted for approval shall show or contain, on its face or on separate sheets, referenced on the plat:
- i. A title block indicating the quarter sections, section, township, range, principal meridian and county of the subdivision. The title plat shall contain the words "plat" and subdivision";
  - ii. Name(s) of the owner's of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and tied thereto;
  - iii. North point;
  - iv. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing);

- v. All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
  - vi. Witness monuments, basis for bearing, bearings and length of lines;
  - vii. The bearings, distance and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given;
- De.** The final plat submitted for approval shall show or contain **D** data on all curves sufficient to enable the re-establishment of the curves on the ground. This data shall include:
- i. Radius of curve;
  - ii. Arc length;
  - iii. Notation of non-tangent curves.
- Ed.** The final plat submitted for approval shall show or contain **E** lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute;
- Fe.** The final plat submitted for approval shall show or contain the location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary;
- Gf.** The final plat submitted for approval shall show **A** all lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot (gross, net and taxable, as applicable) and the total acreage of all lots. (Excepted parcels marked “Not included in this Subdivision” or “Not included in this plat” as appropriate, and the boundary completely indicated by bearings and distances;
- Hg.** The final plat submitted for approval shall show **A** all easements, roads, alleys, avenues, and highways; their widths, bearings, the width and purpose of all rights-of-way and the names of all roads and highways;
- Ih.** The final plat submitted for approval shall show the location, dimensions and areas of all parks, common areas and all other grounds dedicated for public or common use. Where cash has been accepted in lieu of land dedications, it shall be so stated on the final plat and the amount of cash donated stated thereon;
- Ji.** The final plat submitted for approval shall show gross and net acreage of the subdivision;

- ~~Kk.~~ The final plat submitted for approval shall contain a ~~A~~ legal description of the perimeter boundary of the tract surveyed;
- ~~Ll.~~ All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown;
- ~~Mm.~~ The final plat submitted for approval shall contain ~~T~~the signature and seal of the registered land surveyor responsible for the survey. The affixing of his/her seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, M.C.A.), and these Regulations;
- ~~Nn.~~ The final plat submitted for approval shall show or contain ~~M~~memorandum of oaths administered pursuant to Section 76-3-405 M.C.A., has been filed with the Flathead County Clerk and Recorder;
- ~~Oo.~~ The final plat submitted for approval shall show ~~H~~house numbers (addresses) ~~shall be as~~ assigned by the Flathead County Address Coordinator;
- ~~Pp.~~ The following certifications shall appear on the face of the final plat (refer to Appendix F for sample forms and certificates):
- i. Certification by the subdivider dedicating roads, parks or playground, or other public improvements, or stating cash donations in lieu of dedication, when applicable;
  - ii. Certification by the subdivider allowing usage of the easements for the purpose designated on the plat;
  - iii. Certification by the licensed land surveyor who prepared the final plat and related documents;
  - iv. Certification of examining land surveyor where applicable;
  - v. Certification by the County Commissioners expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification;
  - vi. Certification by the County Attorney;
  - vii. Certification by the County Commissioners that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local government review under Section 76-3-207,

M.C.A. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207, M.C.A., approved by the local governing body is not required for relocation of common boundary lines or aggregation of lots;

- viii. Waiver of right to protest participation in Special Improvement District (See Appendix F, Sample Forms and Certifications). (Remove or change due to recent legislation)

¶ Moved to B. above

The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the County as part of the final plat application process. Said original documents must accompany the approved final plat when filed with the County Clerk and Recorder:

- i. A title report from a licensed title abstractor or Title Company showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land (must not be over 90 days old at time of Flathead County Planning & Zoning Office final plat application acceptance);
- ii. Copies of any deed restrictions relating to public improvements;
- iii. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;
- iv. Copies of articles of incorporation and by-laws for any property owners' association;
- v. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed;
- vi. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans;
- vii. Copy of the state highway permit when a new road access will intersect with a state highway;
- viii. A certification from the County Treasurer's Office stating that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid;

- ix. ~~Certification by the local fire district or local fire control authority that the  
Fire Prevention and Fuels Reduction Plan has been implemented.~~



## Appendix F Sample Forms and Certificates

### General Instructions

The following are sample forms and certificates to be used for the preparation of final subdivision plats and applications. Sample forms and letters include:

- a. Grant of Easement Letter;
- b. Irrevocable Letter of Credit;
- c. Certificate of Dedication;
- d. Certificate of Surveyor – Final Plat;
- e. Certificate of Final Plat;
- f. Consent to Dedication of Encumbrances;
- g. Certificate of Examining Land Surveyor where required;
- h. Certificate of Filing by Clerk and Recorder;
- i. Certificate of County Treasurer;
- ~~j. Wavier of Protest – Participation in Special Improvement District;~~
- ~~jk.~~ County Attorney Certificate.

Utility Easements and service provider access:

In addition to showing the location of the utility easement(s) on the plat with dashed lines, the following statement shall appear on the final plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement to have and to hold forever."

a. **Grant of Easement**

THIS INDENTURE, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by and between \_\_\_\_\_, of \_\_\_\_\_, Montana, hereinafter referred to as the “Grantor”, and (subdivider) of \_\_\_\_\_, Montana, hereinafter referred to as the “Grantee.”

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide, shown on the attached certificate of survey, extending across the following described tract(s) of land:

(legal description of Grantor's property over which easement is granted)

THIS GRANT of right and authority shall run with the said property and be binding on the Grantor, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Grantor

STATE OF MONTANA )  
                              ) ss.  
County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal  
this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My commission expires \_\_\_\_\_

b      **Irrevocable Letter of Credit:**

Letter of Credit No.  
Dated:  
Expiration Date:  
Amount:

Board of Commissioners  
Flathead County  
800 South Main  
Kalispell MT 59901

We hereby establish in your favor an irrevocable letter of credit up to the aggregate amount of \$\_\_\_\_\_ at the request of (Name of Subdivider).

If (Name of Subdivider) fails to complete the specified improvements in the (Name of Subdivision) within the time period set forth in the attached Improvements Agreement, we will pay on demand your draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements. All drafts must indicate the number and date of this letter of credit and be accompanied by a signed statement of an authorized official that the amount is drawn to install improvements not installed in conformance with the Improvements Agreement and specifying the default or defect in question.

All drafts must be presented prior to the expiration date stated above, and this letter of credit must accompany the final draft for payment.

This letter may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Name of Lending Institution)

(Signature and Title of Authorized Official)

c. **Certificate of Dedication - Final Plat:**

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, roads and alleys, as shown by the plat hereto annexed, the following described land situated in Flathead County Montana, to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all roads, avenues and alleys shown on said plat are hereby granted and donated to the use of the public forever. The roadways dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same. The owner(s) agree(s) that the County has no obligation to maintain the roads hereby dedicated to the public use.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Acknowledged and notarized  
signatures of all record  
owners of platted property.)

d. **Certificate of Professional Land Surveyor - Final Plat:**

State of Montana )  
 ) ss.  
County of \_\_\_\_\_)

~~I, (Name of Surveyor), a registered Land Surveyor do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.~~

I hereby certify that I am a licensed Professional Land Surveyor in the State of Montana, that the survey shown on this subdivision plat has been prepared in accordance with Montana Code Annotated Title 76 Chapter 3 and the Montana Department of Labor and Industry Administrative Rules for the Montana Subdivision and Platting Act, Uniform Standards for Monumentation, Certificates of Survey and Final Subdivision Plats, ARM 24.183.1101 - 24.183.1107.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

(Signature of Surveyor )

(Printed name of surveyor)

Montana License No. \_\_\_\_\_

(Address \_\_\_\_\_)

e. **Certificate of Final Plat Approval - County:**

The County Commission of Flathead County, Montana, does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock.

Signature of Clerk and Recorder

Signature of Chairman  
County Commissioner

Seal of County

f. **Consent to Dedication by Encumbrances, If Any:**

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Acknowledged and notarized signatures of  
all encumbrances of record.)

g. **Certificate of Examining Land Surveyor Where Required - Final Plat:**

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for Flathead County, Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, M.C.A.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal of Examining Land Surveyor)

(Signature of Surveyor)  
(Printed Name of Surveyor)  
Montana License No. \_\_\_\_\_  
Flathead County, Montana

h. **Certificate of Filing by Clerk and Recorder:**

STATE OF MONTANA )

County of \_\_\_\_\_ ) ss.

File for record this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ o'clock.

(Signature of Clerk and Recorder)

County Clerk and Recorder

\_\_\_\_\_, Montana

i. **Certificate of County Treasurer:**

I hereby certify, pursuant to Section 76-3-611(1)(b), M.C.A., that no real property taxes and special assessments assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) are delinquent:

(legal description of land)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

(seal)

(Signature County Treasurer)

\_\_\_\_\_, County,  
Montana~~j. **Waiver of Protest – Participation in Special Improvement District**~~

\_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District.

\_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision.

**jk. County Attorney Certificate**

**CERTIFICATE OF COUNTY ATTORNEY:**

This plat has been examined by the Office of the County Attorney according to  
Section 76-3-612(2), MCA, relying upon

Title Report No. \_\_\_\_\_ and approved  
based on information submitted by the developer or his agent.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Office of the Flathead County Attorney

## Appendix G Subdivision Improvement Agreement

### **General Instructions**

The model subdivision improvement agreement is intended to be used in situations where improvements required for final approval or conditional approval to be extended beyond the three year preliminary subdivision plat approval. A subdivider may request a subdivision improvement agreement to guarantee the construction of improvements in a timely manner.

### **Procedures**

A subdivider requesting a subdivision improvement agreement shall follow the following procedures:

- a. The subdivision improvement agreement must be complete and submitted with the application for final plat;
- b. The term of the agreement in Section 2 is no more than ~~one (1) year~~ eighteen (18) months following final plat approval;
- c. The subdivider may request a second year extension to the subdivision improvement agreement. The Commission shall require a new “estimated construction cost “ and surety to reflect 125 percent of the estimated construction cost.
- de. All Department of Environmental Quality approvals required for final plat shall be obtained prior to entering into a subdivision improvement agreement.

### **SUBDIVISION IMPROVEMENT AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the FLATHEAD COUNTY BOARD OF COMMISSIONERS of Flathead County, Montana, Party of the First Part and hereinafter referred to as the COUNTY, and

\_\_\_\_\_  
(Name of Developer)

a  
\_\_\_\_\_

\_\_\_\_\_  
(Individual, Company or Corporation)  
located at

\_\_\_\_\_  
(Street Address/P. O. Box) (City, County, State, Zip)



Party of the Second Part and hereinafter referred to as DEVELOPER.

**WITNESSETH:**

**THAT WHEREAS,** the Developer is the owner and developer of a new subdivision known as

\_\_\_\_\_  
(Name of Subdivision)  
located at

\_\_\_\_\_  
(Location of Subdivision)  
and,

**WHEREAS,** the County has conditioned its approval of the final plan of \_\_\_\_\_ (Name of Subdivision) \_\_\_\_\_, upon the conditions as set forth in the Preliminary Plat of the Subdivision being completed and all improvements, as cited in "Exhibit A" have not been completed at this time, and the Developer wishes to bond for the completion of those improvements set forth in "Exhibit A"; and

**WHEREAS,** the County's Subdivision Regulations require that a subdivider shall provide a financial security of 125% of the estimated total cost of construction of said improvements as evidenced by an estimate prepared by a licensed public engineer included herewith as "Exhibit B"; and

**WHEREAS,** the estimated total cost of construction of said improvements is the sum of \$ \_\_\_\_\_.

NOW THEREFORE, in consideration of the approval of the final plat of said Subdivision by the County, the Developer hereby agrees as follows:

1. The Developer shall deposit as collateral with the County a Letter of Credit, or other acceptable collateral as determined by the Flathead County Board of Commissioners, in the amount of \$ \_\_\_\_\_. Said Letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements, certifying the following:
  - a. That the creditor guarantees funds in the sum of \$ \_\_\_\_\_ the estimated cost of completing the required improvements in \_\_\_\_\_.  
(Name of Subdivision)
  - b. That if the Developer fails to complete the specified improvements within the required period, the creditor will pay to the County immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;

2. That said required improvements shall be fully completed by \_\_\_\_\_, 20\_\_\_\_.
3. That upon completion of the required improvements, the Developer shall cause to be filed with the County a statement certifying that:
  - a. All required improvements are complete.
  - b. That the improvements are in compliance with the minimum standards specified by the County for their construction and that the Developer warrants said improvements against any and all defects for a period of one (1) year from the date of acceptance of the completion of those improvements by the County.
  - c. That the Developer knows of no defects in those improvements.
  - d. That these improvements are free and clear of any encumbrances or liens.
  - e. That a schedule of actual construction costs has been filed with the County.
  - f. All applicable fees and surcharges have been paid.
4. The Developer shall cause to be filed with the County copies of final plans, profiles, grades and specifications of said improvements, with the certification of the registered professional engineer responsible for their preparation that all required improvements have been installed in conformance with said specifications.

IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS,  
TO-WIT:

That the Developer shall provide for inspection of all required improvements by a registered professional engineer before the Developer shall be released from the Subdivision Improvement Agreement.

That if the County determines that any improvements are not constructed in compliance with the specifications, it shall furnish the Developer with a list of specific deficiencies and may withhold collateral sufficient to insure such compliance. If the County determines that the Developer will not construct any or all of the improvements in accordance with the specifications, or within the required time limits, it may withdraw the collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. The unused portions of the collateral shall be returned to the Developer or the crediting institution, as is appropriate.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year herein before written.

\_\_\_\_\_  
(Name of Subdivision/Developer/Firm)

by \_\_\_\_\_

\_\_\_\_\_  
(Title)

STATE OF MONTANA  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this day and year first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

FLATHEAD COUNTY BOARD OF COMMISSIONERS ATTEST:

Paula Robinson  
Clerk and Recorder

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Deputy

++++++

#### EXHIBIT A

Conditions of approval as fixed to the preliminary plat by the Flathead County Board of Commissioners.

**ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES*****Comment:***

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider fail to install the required the improvements. A suggested irrevocable letter of credit ~~and commentary are~~ is included as part of this Appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125 percent of the estimated total cost of installing all required improvements.

- a. **Letter of Credit** - Subject to governing body approval, the subdivider shall provide the governing body an irrevocable letter of credit (as opposed to revocable) from a bank or other reputable institution or individual certifying the following:
  - i. That the creditor guarantees funds in an amount equal to the cost, as approved by the governing body, of completing all required improvements. The letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements;
  - ii. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft\* without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;  
\* A "sight draft" commits the payer to make payment at the time the draft is presented, or on sight. Other types of drafts allow a waiting period or approval before the payer must make the payment.
  - iii. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.
- b. **Escrow Account** - The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body. Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

- i.. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period;
  - ii. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.
- c. **Surety Performance Bond** - The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the County (City) of \_\_\_\_\_. The bond must be in effect until the completed improvements are accepted by the governing body;
- d. **Sequential Development** - Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section; **Contradicts phasing standards as phases are meant to be stand-alone**
- e. **Special Improvements District** - The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created. If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA:
  - i. An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

***Comment:***

*Local officials should be cautious in accepting special improvement districts or rural improvement districts as forms of improvements guaranties. In a number of cases in Montana, the subdivider has been unable to pay the assessments and the city or county has had to bear the cost of completing the required improvements. These problems occur most frequently where improvement districts are formed as a means to provide improvements on raw land, and local officials may want to avoid creating improvement districts for undeveloped property.*

*Local officials should consult a bond underwriter before accepting an improvement district as a form of improvements guaranty.*

*Letters of credit may be revocable, so it is important to express that the letter of credit is irrevocable. Because the letter of credit does not incorporate the subdivision improvement agreement, the issuer of the credit cannot raise objections to the demand for payment. If the letter of credit specifies that the local government need only present a signed statement or affidavit that the subdivider is in default, the local government need not present proof of default or signed statements from any other party.*

*Under the letter of credit the local government is committed to use the funds for completion of the improvement.*

*It is important that the expiration date of the letter of credit allows the local government a reasonable amount of time after the improvements completion deadline to inspect the improvements and, if defects are found, prepare proper drafts and present a notice of default to the lending institution.*

*Lending institutions may be reluctant to issue letters of credit to be in force for long periods of time. Typically, improvements can be completed in 18-24 months, and an additional 1 year warranty period is appropriate to allow the local government to monitor for defects or failures. Following the warranty period an additional 90 days is reasonable to give local officials time to submit any drafts and documentation to draw funds, if necessary.*

*A "sight draft" commits the payor to make payment at the time the draft is presented, or on sight. Other types of drafts allow a waiting period or approval before the payer must make the payment.*

**MODEL  
IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. \_\_\_\_

Name of Local Government  
Address

Date

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # \_\_\_\_ for the account of (Subdivider), available by your drafts at sight up to an aggregate amount of \$ \_\_\_\_\_. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to expiration date and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

“Drawn under (lending institution), Letter of Credit # \_\_\_\_  
dated (date of Letter of Credit),” and the amount drawn endorsed on the  
reverse  
hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts will be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution)

(Signature and Title of Official)

**Appendix H**  
**Subdivision Roadway Late-comers Agreement**

**General**

This model roadway late-comers agreement is intended to be used in situations where roadway improvements on County maintained roads or easements are required to mitigate the expected impacts which are directly attributable to a proposed subdivision. The extension of roadway improvements are pursuant to 76-3-510, MCA and are required to protect the public health, safety and welfare of Flathead County and its citizens.

**FLATHEAD COUNTY  
LATECOMERS AGREEMENT**

**THIS AGREEMENT** is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Flathead County Board of County Commissioners, Party of the First Part and hereinafter referred to as COUNTY, and

\_\_\_\_\_  
("Name of DEVELOPER")

a \_\_\_\_\_

\_\_\_\_\_  
(Individual, Company or Corporation)  
located at

\_\_\_\_\_  
(Street Address/P.O. Box) (City, County, State, Zip Code)  
Party of the Second Part and hereinafter referred to as DEVELOPER.

**WITNESSETH:**

**THAT WHEREAS**, the DEVELOPER is the owner and developer of a new subdivision known as

\_\_\_\_\_  
(Name of Subdivision)  
located at

\_\_\_\_\_, and  
(Location of Subdivision)

**WHEREAS**, the COUNTY owns and maintains a public roadway system that serves properties within the unincorporated Flathead County for the benefit of the public.

**WHEREAS**, the COUNTY has conditioned its' approval of the final plat of the subdivision,

\_\_\_\_\_  
(Name of Subdivision)



upon the conditions as set forth in the preliminary Plat of the Subdivision and all its improvements being completed pursuant to the Conditional Approval set forth in "Exhibit A".

**WHEREAS**, the DEVELOPER has completed roadway improvements to COUNTY standards on COUNTY maintained roadways or easements pursuant to the Conditional Approval set forth in "Exhibit A" which will benefit properties in addition to those developed by the DEVELOPER.

**WHEREAS**, the COUNTY and DEVELOPER have identified certain properties that may eventually benefit from the roadway improvements set forth in "Exhibit B", and

**WHEREAS**, the DEVELOPER seeks reimbursement from properties that may eventually benefit from the roadway improvements as these properties are developed as set forth in Exhibit "C".

**THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Entitlement to Reimbursement. The COUNTY agrees that DEVELOPER has installed the roadway improvements to COUNTY standards for which the COUNTY'S existing policies entitle the DEVELOPER to seek reimbursement from future property developers who benefit from such facilities:

a. Roadway Improvements:

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Based on evidence and information submitted by DEVELOPER, the COUNTY agrees that the DEVELOPER shall be entitled to seek reimbursement, for the facilities described above in the amount of \_\_\_\_\_ DOLLARS as set forth in Exhibit "C".

2. Identification of Properties. The parties agree that the properties identified on Exhibit "B," attached hereto and incorporated herein by reference, are those properties from which DEVELOPER is entitled to seek reimbursement for roadway improvements to COUNTY maintained roadways or easements, and the reimbursement that DEVELOPER is entitled to seek is the amount set forth on Exhibit "C" with respect to each property.

3. COUNTY Effort to Collect. The COUNTY agrees that it shall exercise its best, good faith efforts to assist DEVELOPER in collecting reimbursement as set forth herein. The COUNTY will exercise its best, good faith efforts to decline to allow the properties described on Exhibit "B" to subdivide or develop for which DEVELOPER is entitled to seek reimbursement unless and until such properties have deposited with the COUNTY the appropriate amount of reimbursement, as described on Exhibit "C." Other than exercising its best, good faith efforts to obtain reimbursement from those properties

identified on Exhibit "B," the COUNTY shall have no further obligation to reimburse DEVELOPER for the roadway improvements. The COUNTY shall not incur liability for any unauthorized development within the properties identified in "Exhibit "B" and the COUNTY shall not be obligated to pay to DEVELOPER any amount of reimbursement as set forth therein until the COUNTY has actually collected such amount from the properties described on Exhibit "B." DEVELOPER acknowledges that the COUNTY has entered into this Agreement as an accommodation and as a convenience to DEVELOPER, and the COUNTY does not guaranty that any amount of reimbursement will be collected for DEVELOPER; nor will the COUNTY be liable if it fails, through negligence or otherwise, to collect from a particular property.

4. Payment to Developer. Within thirty (30) days of the COUNTY'S collection of reimbursement from one of the property owners described on Exhibit "B," the COUNTY shall remit such amount to the DEVELOPER, less a service charge equal to seven (7) percent of the amount collected (but in no event exceeding \$500.00) to defray the COUNTY'S costs of administering this Agreement.

5. Term; Incorporation of Policies. This Agreement shall be in effect for a period of fifteen (15) years, after which time it shall automatically terminate. DEVELOPER shall have no right to reimbursement from any properties described on Exhibit "B" after the termination of this Agreement; nor shall the COUNTY have any further obligation to monitor or identify properties that benefit after the termination of this Agreement.

6. Attorneys' Fees. In the event of any litigation to enforce or interpret the provisions of this Agreement, or to remedy a breach thereof, the prevailing party shall be entitled to reasonable attorneys' fees as fixed by the court.

7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all parties to this Agreement.

8. Governing Law. The construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Montana.

9. Forum. Any litigation to enforce or interpret the provisions of this Agreement or the parties' rights and liabilities arising out of this Agreement or the performance hereunder shall be maintained only in the courts in the County of Flathead, Montana.

10. Successors in Interest. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estate, heirs, and legatees of each of the parties hereto.

11. Notices. All notices, requests, payments, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall either be delivered in writing personally or be sent by telegram or by regular or certified first-class mail, postage prepaid, deposited in the United States mail, and properly addressed to the party at his address set forth on the signature page of this Agreement, or at any other address that such party may designate by written notice to the other party.

**IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS, TO WIT:**

**IN WITNESS WHEREOF,** the parties have hereunto set their hands and seals the day and year herein before written.

Dated: \_\_\_\_\_

DEVELOPER

By:

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

FLATHEAD COUNTY

By:

\_\_\_\_\_

Chairperson

ATTEST:

\_\_\_\_\_

County Clerk and Recorder

## Appendix I

### Standards for Flood Hazard Evaluation

#### General Instructions

Where the subdivider is required by the governing body to provide data for use in defining the 100-Year floodplain, overland flooding, or seasonal flooding, the following information shall be submitted to the Planning and Zoning Office for forwarding to the Floodplain Management Section of the Water Resources Division, Montana Department of Natural Resources and Conservation:

- a. A flood hazard evaluation assessing all possible flooding hazards of the 100-Year event to a proposed subdivision and identifies potential flooding risks:
  - i. The flood hazard evaluation shall present an objective technical analysis in a straight forward and logical manner that leads the reviewer through the analytical process to the resulting conclusions and recommendations;
  - ii. Acceptable methodologies for developing a flood hazard evaluation include industry standard methods and those capable of satisfying professional peer review. These include engineering, hydraulic, hydrologic, fluvial geomorphic, geotechnical, and risk analyses (industry standard, one-dimensional, standard step backwater, HEC-RAS modeling) in addition to professionally qualified opinions and observations.
- b. The flood hazard evaluation shall include:
  - i. A hydrologic analysis detailing the deviation of the magnitude and frequency of the design flows utilized in the risk analysis (a discussion of the statistical and applicant's confidence in these estimates); the implications of simultaneous flood events on the design discharge, and written verification that these estimates reflect the most recent gauge data and /or industry standard estimation methodologies. In order to model the 100-Year flow, cross-sections shall be surveyed and a topographic map required;
  - ii. A hydrographic analysis and written commentary regarding the accuracy of the existing regulatory maps to predict 100-Year floodplain boundaries with existing conditions upstream, on site and downstream of the project area or a new flood study proposed as the new regulatory map for the project area. The hydraulic analysis should be completed using a standard step backwater methodology;

- iii. If the flood boundaries change significantly from what is shown on the previous Flood Insurance Rate Map (FIRM) Zone A, a Letter of Map Revision (LOMR) is required;
- iv. A written discussion of over-bank flow path uncertainty related to rivers and stream channels that are topographically higher than surrounding floodplains, shallow flooding channels, alluvial fan flooding, debris jams, ice jams and/or diversions and ditches;
- v. A written discussion of possible or predicted channel stability, including the possibility of channel splitting and/or thalweg migration that could affect the flooding dynamics in the project area;
- vi. A written discussion of the risk of landslides and/or debris flows occurring and affecting flood behavior in project area drainages;
- vii. An analysis of the stability and structural integrity of permitted and un-permitted floodplain fill in the vicinity of the project that contacts the 100-Year floodplain, including rip rap, berms, levees, and other fill;
- viii. Identification and quantification of predicted overland flow and potential overland flow paths above and below the property under consideration;
- ix. Identification and quantification of predicted flooding from runoff over saturated and/or frozen ground;
- x. A complete written discussion of the storm water runoff management practices and design criteria utilized to safely pass storm water through the project without negatively affecting up and downstream flood dynamics. This may include an analysis of runoff after projected build out scenarios;
- xi. A written discussion of risks associated with failures in upstream, downstream or on-site road, culvert, bridge and other storm water management infrastructure;
- xii. A statement attesting that all proposed sanitary sewer infrastructure meets 100-Year flood design standards and/or will not otherwise contribute to water pollution during periods of flooding;
- xiii. A written discussion of irrigation ditches in the area and how they would function during a 100-Year flood and affect the project should they fail or overtop;
- xiv. An identification of depression areas (areas below the Base Flood Elevation or design flood elevation but unconnected to a separate and discrete flow path);

- xv. A written discussion of risks associated with dam failures, if appropriate;
  - xvi. A written discussion of potential changes associated with the project such as logging, potential burns and or major development that would affect the runoff or watershed hydrology of the surrounding area;
  - xvii. A written discussion of any flood hazard that the County feels is germane to the project;
  - xviii. A copy of the plat showing contour intervals of no greater than five feet;
  - xix. The location and elevation of a temporary benchmark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.
- c. The analysis shall be based on cross-sections according to the following minimum requirements:
- i. Cross sections should be placed at representative locations throughout the floodplain reach of the subdivision and located in such a manner as to represent the flow reach between cross sections. Each flow reach should be as uniform in geometry and roughness as practical;
  - ii. At least two (2) cross-sections shall be taken downstream of the proposed subdivision boundary no more than 1,000 feet apart and one (1) cross section will be taken at the downstream boundary of the proposed subdivision;
  - iii. Cross sections are required at locations where changes occur in discharge, channel/floodplain slope, channel/floodplain shape, or channel/floodplain roughness; at locations where FEMA certified levees begin or end; and at bridges or control structures such as weirs;
  - iv. At least three (3) cross sections shall be taken and used to describe bridges, culverts, constrictions, or where abrupt channel/floodplain changes occur;
  - v. One (1) cross section at each lot within the proposed subdivision, at the approximate location of the proposed building site and septic system, where the stream intersects;
  - vi. One (1) cross section midway between the proposed subdivision property boundary lines or at intervals of no more than five hundred (500) feet;

- vii. At least two (2) cross sections shall be taken upstream from the proposed subdivision boundary no more than 1,000 feet apart and one (1) cross section shall be taken at the upstream subdivision boundary. Additional cross sections may be required if any development associated with the proposed subdivision creates a backwater situation or a rise in existing base flood elevations.
- d. Form and Content. Three (3) copies of the floodplain application along with a brief description of the project, study objectives, and data must be submitted for the floodplain analysis. The application and floodplain analysis shall be certified by a licensed professional engineer and/or a licensed surveyor. The following minimal information must be submitted along with the floodplain application:
  - i. Copy of the current FEMA FIRM map, with panel number noted, at the project location showing the location of the surveyed cross sections and the proposed subdivision;
  - ii. A vicinity map (use the latest version of the appropriate USGS 7.5 minute quadrangle or a similar scale aerial photograph) that clearly shows the following:
    - (a) The location of the subdivision and all of the cross-sections;
    - (b) Section, Township, and Range;
    - (c) The location and elevation of all culverts, bridges, levees, diversion dams, or any other type of hydraulic structure within the reach being analyzed;
    - (d) The location of the benchmark (with the NAVD 1988 datum) that was used in the survey;
    - (e) The hydrologic drainage area of the stream being analyzed.
  - iii. A written narrative describing the vegetation along the banks, the material composition of the bed and banks, and any hydraulic structures. Color photographs shall be required when proposed hydraulic data is atypical
  - iv. A written narrative describing all culverts and bridges (size, type, etc.), or any hydraulic structure within the reach;
  - v. An discussion of the discharge estimation method along with a detailed description of the methodology, data, and computations so that the analysis may be replicated. This should include:

- (a) A discussion of the model choice and methodology (i.e. normal depth, step backwater model type);
  - (b) A summary of available gage sites if applicable and a discussion of discharge estimations;
  - (c) Copies of model input/output on paper and on disk;
  - (d) A discussion of the model parameters used including Manning's "n" values, starting water surface elevations, and flow regimes;
  - (e) A discussion of any special concerns, bridges, levees, hydraulic structures, side channels, or ineffective flow areas that may be applicable to the project;
  - (f) A discussion of model results, warnings, and assumed critical depths.
- vi. Drawings of each cross-section that clearly shows the following:
  - (a) Elevation of the ground surface;
  - (b) Elevation of the water surface at the time of the survey;
  - (c) Elevation of the 100-year floodplain;
  - (d) The apparent high-water mark.
- vii. A copy of the plat with ground contours (at a sufficient interval to clearly delineate the floodplain boundaries) that clearly shows the following:
  - (a) The location of all cross-sections and elevation reference marks (benchmarks or temporary benchmarks);
  - (b) The watercourse and property boundaries;
  - (c) The location of all culverts, bridges, or any hydraulic structures;
  - (d) The location of the FEMA mapped 100-year floodplain, where applicable;
  - (e) The location of the actual 100 yr. floodplain boundary, based upon the intersection of the 100 yr. base flood elevation and the natural grade.
- viii. Additional information may be required if there is potential for adverse effect to adjacent property owners and/or the 100 yr. base flood elevations are changed;



Additional guidance can be found at the Montana Department of Natural Resources website at [www.dnrc.mt.gov/wrd/waterop/floodplain](http://www.dnrc.mt.gov/wrd/waterop/floodplain).

- e. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map;
- f. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway opening and elevations;
- g. Color photographs clearly depicting the vegetation of both overbanks and the material composition of the banks and channel bottom shall be submitted for each cross section;
- h. Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal distance. The water surface at the time of survey shall be plotted on each cross section;
- i. A profile sheet prepared on cross section paper at ten divisions to the inch showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile and thalweg (lowest point of the channel bottom);
- j. A location map, such as U.S. Geological Survey seven and one-half (7-1/2) minute quad or similar map, showing the proposed subdivision, the locations of the valley cross sections and any gauging stations;
- k. These requirements may vary, so the Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation should be contacted.

## Appendix J Dust Control Plan

### **Introduction**

Air quality in Flathead County is an important consideration when contemplating subdivision and/or development. Human caused dust, particulate matter and other sources of air pollution will degrade the visibility and possibly create public health concerns for residents and visitors. The Dust Control Plan is intended to identify possible sources of dust and means to mitigate potential dust related to subdivision activities. The focus of the plan is unpaved roads, but may also apply to other soil disturbing construction related activities. Please provide the information requested below and identify the measures taken to mitigate potential sources of dust.

### **Subdivision:**

---

### **Location**

---

---

### **Primary Road Access and Length (from nearest County paved road)**

---

---

---

### **Identify Long Term Dust Control on Unpaved Roadways\***

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---

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\*Note: Pavement of roadways, soil binding or dust control palliatives on roadways, watering, grass plantings, etc. represents reasonable precautions and should be considered for effective dust control measures and mitigation.

### **List Measures Intended During Construction Activities**

For roadways (both internal and external to the subdivision):

---

---

For

utilities:

---

---

---

For other  
construction:\_\_\_\_\_

---

---

Signature of subdivider:\_\_\_\_\_

**Appendix K**  
**Road User's Agreement**

DECLARATION CREATING  
ROAD USER'S MAINTENANCE AGREEMENT  
FOR THE ROADWAY(S) WITHIN THE \_\_\_\_\_  
SUBDIVISION

This declaration is made by \_\_\_\_\_ ("Declarant").

WHEREAS, Declarant is the present owner of the real property described below and wishes to impose requirements for the future maintenance of internal subdivision roadway(s);

WHEREAS, the real property which is subject to provisions of this Declaration is more particularly described as follows:

\_\_\_\_\_ Subdivision,  
located in Section \_\_\_\_, Township \_\_\_\_ North, Range \_\_\_\_ West, Flathead County,  
Montana;

NOW, THEREFORE, Declarant declares the following requirements to assure maintenance of the roadway or roadways within the above-described subdivision. These requirements shall run with the land and shall be binding upon and enforceable by the owner (or owners) of each lot located within the above-described subdivision, their heirs, successors, and assigns.

1. The roadway or roadways within the above-described subdivision shall be maintained in good and passable condition under all traffic and weather conditions.
2. The costs for maintenance and repair of the roadway or roadways, including associated storm-water infrastructure and signage, shall be divided equally between each lot. Each lot owner (or owners) shall pay its pro-rata share, including but not limited to:
  - a. Routine maintenance, including snow plowing and clearing of culverts and drainage features.
  - b. Major improvements, including new pavement, re-striping, new sidewalks, and new curbs.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By:

\_\_\_\_\_  
Declarant

**Appendix L**  
**Wildland Urban Interface**  
**Fire Prevention Control and Fuels Reduction Plan**

**Introduction**

Fire hazard risk in the Wildland Urban Interface and areas that include heads of draws, excessive slopes, areas of dense forest growth, or areas that have characteristics of other hazardous wildfire components are addressed in the Fire Prevention Control and Fuels Reduction Plan. All subdivisions within the Wildland Urban Interface shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety (please see Section 4.7.28 Flathead County Subdivision Regulations).

**Subdivision Name:**

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**Location (address and township, range, and sections)**

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**Number of Lots and Average Size (in acres):**

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**Length of Primary Access Road**

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**Name of Road Primary Access Connects with.**

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**The Following Items Must be Included as a part of the Fire Prevention and Control Plan**

- i. An analysis of the wildfire hazards on the site, as influenced by existing vegetation and topography and other factors.
- ii. A map showing the areas that are to be cleared of dead, dying, severely diseased vegetation, or live vegetation.
- iii. A map of the areas that are to be thinned to reduce the interlocking canopy of trees.
- iv. The identification of primary and emergency roads that is sufficient for emergency response and fire suppression activities. Slopes of all roads and other access shall be provided.

- v. Information relating to nearest fire equipment and station, average response time and nearest water source location and fire suppression volume.
- vi. An analysis and recommended actions of the site utilizing Firewise principles, including Safety Zone improvements if applicable.
- vii. A Fire Risk Mitigation Plan, when applicable, pursuant to 4.7.29(a.iii)

Signature of subdivider: \_\_\_\_\_

**Local fire authority or designee review and comments:**

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